Committee on Ways and Means

H.R. 4440, *GULF OPPORTUNITY ZONE ACT OF 2005*

TITLE I: GULF OPPORTUNITY ZONE TAX INCENTIVES

Creates a "Gulf Opportunity (GO) Zone" (the "Zone") comprised of the counties and parishes in Louisiana, Mississippi and Alabama that were designated as warranting individual or public and individual assistance by reason of Hurricane Katrina. The bill creates tax incentives to help revitalize and rebuild communities in the Zone.

Housing

- **Increases incentives to rebuild housing**. Expands the allocation and size of the low-income housing tax credit in the Zone.

    - ⇨ Provides an emergency allocation of low-income housing tax credits in 2006, 2007 and 2008. The emergency allocation is $18.00 multiplied by each State's population in the Zone (based on 2004 Census estimates). This amount is more than nine times larger than the current-law allocation of $1.90 per capita. The increased allocation must be used to build housing in the Zone and may not be carried forward from year to year.

    - ⇨ Increases the size of the credit from 100 percent of qualifying project costs to 130 percent of such costs by designating the Zone as a "Difficult Development Area" in 2006, 2007 and 2008. The increased credit would also apply to historic buildings, which are already eligible for the Rehabilitation Credit under current law.

- **Increases the Rehabilitation Tax Credit to help restore commercial buildings.** Increases the credit from 10 percent of qualified expenditures to 13 percent for qualified rehabilitated buildings in the Zone. The credit is increased from 20 percent to 26 percent for certified historic structures. This provision applies to qualifying expenses incurred through December 31, 2008.

- **Grants Treasury the authority to extend the period for deductibility of travel expenses in case of major disaster.** In the event of a major disaster, Treasury may extend the period during which housing and travel expenses incurred away from home remain deductible.

Investment and Rebuilding in the Gulf Opportunity Zone

- **Provides 50-percent bonus depreciation to help businesses rebuild in the Zone.** Permits businesses to claim an *additional* first-year depreciation deduction equal to 50 percent of the cost of new property investments made in the Zone. The additional deduction applies to purchased computer software, leasehold improvements, certain commercial and residential real estate expenditures and equipment. All depreciation deductions (including bonus depreciation) would be exempt from the AMT. The provision applies to property placed in service through December 31, 2007 (December 31, 2008 for real property).

- **Provides enhanced section 179 expensing to assist small businesses.** Current law permits eligible small businesses to expense up to $100,000 of qualifying investments. Eligible small businesses are defined as those with less than $400,000 of annual investments. The proposal doubles the amount that may be expensed under section 179 (from $100,000 to $200,000) for investments made in the Zone. It also increases the phase-out floor from $400,000 of annual investments to $1 million. The higher phase-out ensures that section 179 expensing remains available to small businesses even if they have extraordinary investments in one year due to rebuilding after the hurricane. The provision expires after December 31, 2007.

- **Speeds rebuilding efforts by temporarily reducing demolition and cleanup costs.** Permits businesses to expense 50 percent of cleanup and demolition costs in the Zone. In addition, brownfield expensing is extended and expanded to include brownfield sites in the Zone that are contaminated by petroleum products. Both incentives expire after December 31, 2007.

- **Incentives and relief for small timber owners.** Allows small timber owners (i.e., those owning less than 500 acres of timber in the Zone to expense $20,000 – as opposed to $10,000 under current law) of reforestation costs incurred from August 27, 2005 through 2006. In addition, small timber owners may elect a five-year carryback of net operating losses occurred after August 27, 2005 and before 2007. These incentives are also available to eligible counties and parishes affected by Hurricane Rita because the geographic proximity of the damage compounded the negative effect on small timber owners.

- **Net Operating Loss (NOL) carryback.** Allows business a five-year carryback of NOLs attributable to investment in the Zone. This provision is available for tax years ending before 2009. An additional rule permits Katrina-related casualty losses associated with public utility property in the Zone to be carried back 10 years.

<u>Bonding Authority</u>

- **Creates additional tax-exempt bond authority to help rebuild devastated infrastructure in the GO Zone.** Provides Louisiana, Mississippi and Alabama the authority to issue a special class of private activity bonds, called GO Zone Bonds, outside of the state volume caps. Bond authority is approximately $7.9 billion for Louisiana, $4.8 billion for Mississippi and $2.1 billion for Alabama. These amounts are based on each State's population in the Zone, according to 2004 U.S. Census estimates.

    - ⇨ GO Zone Bonds can be issued by States and municipalities. Bond proceeds can be used to pay for acquisition, construction, and renovation of nonresidential real property, qualified low-income residential rental housing, single-family residential housing, and public utility property (e.g., gas, water, electric and telecommunication lines) located in the Zone.

⇨ The current low-income housing targeting rules are relaxed so that more bond proceeds can be used to rebuild housing in the Zone.

⇨ Up to $150,000 of GO Zone mortgage revenue bonds may be used to repair homes (as opposed to $15,000 under current law). In addition, the first-time homebuyer rule is waived.

⇨ Interest payments on the bonds are not subject to the AMT.

⇨ The authority to issue GO Zone Bonds expires after December 31, 2010.

- **Allows States and municipalities to reduce costs by restructuring outstanding debt.** Provides States and municipalities in the Zone with one additional advance refunding before January 1, 2011. The additional authorization is up to $4.5 billion for Louisiana, $2.25 billion for Mississippi and $1.125 billion for Alabama. Advance refunding allows the bond issuer to restructure eligible debt by refinancing at a lower rate or spreading interest payments over a longer period of time. *The House has already passed a similar provision by unanimous consent on November 16, 2005 as part of H.R. 4337.*

- **Gulf Tax Credit Debt Service Bonds**. Authorizes GO Zone States to issue debt service tax credit bonds to help devastated communities meet their debt service requirements as a result of the hurricanes. Bonds must mature no more than two years after issuance and must be issued before January 1, 2007. The allocation of bonds is $200 million for Louisiana, $100 million for Mississippi and $50 million for Alabama. *The House has already passed a similar provision by unanimous consent on November 16, 2005 as part of H.R. 4337.*

- **Bonds to assist GO Zone counties, parishes and municipalities.** Authorizes the Secretary of the Treasury to allocate up to $3 billion of bond authority to Louisiana, Mississippi and Alabama. These bonds would have a 50-percent Federal government guarantee and would be required to mature within five years. Interest payments would be taxable to the bond holder. Eligible States are awarded bonding authority only after demonstrating a financial need for such bonds based on a political subdivision’s inability to finance matching requirements for other government assistance or for other purposes. *The House has already passed a similar provision by unanimous consent on November 16, 2005 as part of H.R. 4337.*

- **Gulf Coast Recovery Bonds.** Expresses the sense of Congress that one or more series of savings bonds should be designated as “Gulf Coast Recovery Bonds.”

The GO Zone restoration tax incentives will not be extended to the following types of businesses or investments: Country clubs, facilities used for gambling, hot tub facilities, liquor stores, massage parlors, private or commercial golf courses, racetracks, and suntan facilities.

TITLE II: INDIVIDUAL TAX RELIEF RELATED TO HURRICANES RITA AND WILMA

The *Katrina Emergency Tax Relief Act of 2005* (P.L. 109-73) provided charitable giving incentives and tax relief for families affected by Hurricane Katrina. The following provisions from P.L. 109-73 are extended to families affected by Hurricanes Rita and Wilma in areas designated for individual or individual and public assistance.

- Waives the 10-percent penalty for early distributions from pensions and IRAs if the taxpayer suffered an economic loss by reason of Hurricane Rita or Hurricane Wilma. The income tax can be paid over three years. Amounts repaid to the pension or IRA within a certain amount of time are not subject to income tax.

- Small businesses (i.e., those with less than 200 employees) in the Rita or Wilma Zones may claim an employee retention tax credit of up to $2,400 per employee if they keep workers on the payroll while the business is inoperable. The credit expires at the end of the 2005 calendar year.

- Allows corporations to claim a charitable deduction for cash contributions related to Hurricanes Rita or Wilma without regard to the 10-percent of taxable income cap.

- Allows full deductibility of individual casualty losses occurring in the Rita or Wilma Zones by eliminating the $100 and 10 percent of adjusted gross income thresholds for losses related to the hurricane.

- Authorizes the Secretary of the Treasury to adjust rules so that individuals displaced by the hurricanes do not lose tax benefits - such as the Earned Income Credit and the child credit - because of a change in their eligibility status due to a prolonged dislocation.